

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CHRIS ASHLEY and D'ANGELA
ZAMORA,

Plaintiffs,

v.

Civ. No. 20-154 BRB/SCY

UNITED STATES OF AMERICA,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART
EXTENSION OF TIME TO ANSWER**

This matter comes before the Court on Defendant's Opposed Motion To Extend Time To File Answer (Doc. 7). The United States' Answer is currently due on May 15, 2020. Doc. 7 at 1. The United States requests an extension of time through July 14, 2020. *Id.* at 3. The United States explains that, "due to changes in office staffing in light of COVID-19," its counsel "was not assigned to this case until March 27, 2020." *Id.* at 1. In addition, "current agency counsel was not assigned until April 20, 2020, and did not receive the request for information from our office until April 22, 2020." *Id.* The agency is working on compiling the information needed to answer the complaint. *Id.* But the agency's "efforts to assist in this litigation and obtain information necessary to file an answer have been complicated by COVID-19." *Id.* at 2. All agency employees are on full time telework, which has caused delays in the distribution of relevant documents related to this action. *Id.* "Defendant's request for additional time is not due to oversight or neglect, but reflects the need to work with the U.S. Marshals Service to gather sufficient factual information required to respond to the allegations in the Complaint." *Id.* at 3.

The Court may, for good cause, extend the time for the United States to answer. Fed. R.

Civ. P. 6(b). “This rule should be liberally construed to advance the goal of trying each case on the merits.” *Rachel v. Troutt*, 820 F.3d 390, 394 (10th Cir. 2016). “Showing good cause for an extension of time is not particularly demanding requirement.” *Kucera v. Cent. Intelligence Agency*, No. 18-cv-0094 JB/GJF, 2019 WL 4279034, at *2 (D.N.M. Sept. 10, 2019).

Plaintiffs oppose the request “because the extension [the United States] requests – sixty days – is excessive and imposes unnecessary prejudice on Plaintiffs.” Doc. 11 at 1. Plaintiffs further argue that, while it may not be the fault of counsel for the United States, given that Plaintiffs submitted their administrative claim in July 2019 and completed service on March 17, 2020, the delay in assigning a Marshal’s Service counsel to the case until April 20, 2020 was excessive. Doc. 11 at 2.

The Court notes that the service date, March 17, 2020, was the day after the effective date of this Court’s Administrative Order that drastically changed Court procedures in the District of New Mexico as a result of the COVID-19 pandemic. *See In the Matter of: Court Operations in Light of the Coronavirus Outbreak*, Admin. Order 20-MC-00004-9 (filed March 13, 2020). This Court’s Order was consistent with orders around the country that affected how courts operated, how and where detainees would be moved. Further, concerns regarding the housing of prisoners and need to protect them from the spread of this virus were paramount. Given the disruption the COVID-19 pandemic caused during this time, the Court finds good cause to extend the United States’ time to file an Answer. For many of the reasons Plaintiffs articulated in their motion, however, the Court grants an extension of 45 days rather than the 60-day extension the United States requested.

Plaintiff also requests “the Court set a scheduling conference without further delay so that the parties can move forward with discovery in this matter.” Doc. 11 at 3. Because it appears

from the face of the Complaint that this case involves Deputy U.S. Marshals who work in the same building in Albuquerque as the undersigned judge, this case will be assigned to a new Magistrate Judge to determine when to enter a scheduling order and set discovery parameters.

THEREFORE, IT IS ORDERED THAT Defendant's Opposed Motion To Extend Time To File Answer (Doc. 7) is GRANTED IN PART and DENIED IN PART. The Court hereby extends the deadline for the United States to file its Answer, but for 45 days rather than 60 days. The United States' Answer is due on June 29, 2020.



STEVEN C. YARBROUGH
UNITED STATES MAGISTRATE JUDGE